

IC 27-8-4

Chapter 4. Credit Life and Credit Accident and Health Insurance

IC 27-8-4-1

Purpose

Sec. 1. The purpose of this chapter is to promote the public welfare through the establishment of unified and consistent rules relating to the implementation and administration of the laws of this state pertaining to credit life insurance and credit accident and health insurance, as such insurances are defined and limited in this chapter. *(Formerly: Acts 1961, c.47, s.1.) As amended by P.L.252-1985, SEC.295.*

IC 27-8-4-2

Citation; scope; definitions

Sec. 2. (a) Citation and Scope:

(1) This chapter may be cited as the Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance.

(2) All life insurance and all accident and health insurance of the nature in this chapter defined in connection with loans or other credit transactions shall be subject to the provisions of this chapter, except such insurance issued in relation to an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

(b) Definitions. For the purpose of this chapter:

(1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

(2) "Credit accident and health insurance" means insurance on a debtor to provide funds for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(3) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of any such lender, vendor, or lessor, and any affiliate, associate, or subsidiary of any of them or any director, officer, or employee of any of them or any other person in any way associated with any of them.

(4) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction. The term includes the following:

(A) A joint debtor.

(B) A co-maker.

(C) An endorser.

(D) A guarantor.

(5) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit

transaction.

(6) "Commissioner" means insurance commissioner of Indiana.

(7) The term "accident and health insurance" has the same meaning as "accident and sickness insurance" sometimes used in other statutes relating to insurance against accident and sickness.

(Formerly: Acts 1961, c.47, s.2.) As amended by P.L.252-1985, SEC.296; P.L.153-1986, SEC.4; P.L.132-1994, SEC.2.

IC 27-8-4-3

Forms of insurance

Sec. 3. Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

A. Individual policies of life insurance issued to debtors on the term plan;

B. Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;

C. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

D. Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

(Formerly: Acts 1961, c.47, s.3.)

IC 27-8-4-4

Limitations on amount of insurance

Sec. 4. A. Credit Life Insurance. The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness and, when an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater. Notwithstanding the provisions of this paragraph, insurance on agriculture credit transaction commitments, not exceeding one (1) year in duration, may be written up to the amount of the loan commitment on a non-decreasing or level term plan.

B. Credit Accident and Health Insurance. The aggregate amount of periodic benefits payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not, in the case of an indebtedness payable in installments, exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness or in the case of an indebtedness payable in one sum, the unpaid amount of such indebtedness; and the amount of each periodic benefit payment shall not exceed the original indebtedness divided by the number of periodic installments.

(Formerly: Acts 1961, c.47, s.4.)

IC 27-8-4-5

Term of insurance

Sec. 5. The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. This rule shall apply when no evidence of insurability is required and, as well, when such evidence is required and is furnished within the period of thirty (30) days after the date when the debtor becomes obligated to the creditor; but should such evidence of insurability be furnished after such thirty (30) day period, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than fifteen (15) days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 8 of this chapter.

(Formerly: Acts 1961, c.47, s.5.) As amended by P.L.252-1985, SEC.297.

IC 27-8-4-6**Policy or certificate; delivery; rejection of risk; to another insurer; credit for lower premium**

Sec. 6. (a) All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy of group certificate of insurance shall be delivered to the debtor.

(b) Each individual policy or group certificate of credit life insurance or credit accident and health insurance shall, in addition to other requirements of law, set forth:

- (1) the name and home office address of the insurer;
- (2) the name or names of the debtor or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor;
- (3) the premium or amount of payment, if any, by the debtor separately for credit life insurance and credit accident and health insurance;
- (4) a description of the coverage including the amount and term thereof;
- (5) any exceptions, limitations, and restrictions; and
- (6) that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount

of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

(c) Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as provided in this chapter.

(d) If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth:

- (1) the name and home office address of the insurer;
- (2) the name or names of the debtor;
- (3) the premium or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and health insurance; and
- (4) the amount, term, and a brief description of the coverage provided;

shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale, or other credit statement of account, instrument, or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within thirty (30) days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 5 of this chapter.

(e) If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance, if one can be obtained from another insurer, setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.

(Formerly: Acts 1961, c.47, s.6.) As amended by P.L.252-1985, SEC.298; P.L.255-1995, SEC.8.

IC 27-8-4-7

Filing of documents; disapproval of form of policy; effect; withdrawal of approval; review

Sec. 7. (a) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner.

(b) The commissioner shall, within thirty (30) days after the filing of any such policies, certificates of insurance, notices of proposed

insurance, applications for insurance, endorsements, and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of the coverage, or are contrary to any provision of this title or of a rule promulgated under this title.

(c) If the commissioner notifies the insurer that the form is disapproved, it shall be unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within twenty (20) days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement, or rider, shall be issued or used until the expiration of thirty (30) days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

(d) The commissioner may, at any time after a hearing held not less than twenty (20) days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in subsection (b). The written notice of such hearing shall state the reason for the proposed withdrawal.

(e) It shall be unlawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

(f) If a group policy of credit life insurance or credit accident and health insurance:

(1) has been delivered by an insurer in this state before July 6, 1961; or

(2) has been or is delivered by an insurer in another state before or after July 6, 1961;

such insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in sections 6(b) and 6(d) of this chapter, and such forms shall be approved by the commissioner if they conform with the requirements specified in sections 6(b) and 6(d) and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates on file with the commissioner; provided, however, that the premium rate in effect on group policies existing on July 6, 1961, may be continued until the first policy anniversary date following the date this section becomes operative as provided in section 12 of this chapter.

(g) Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.

(Formerly: Acts 1961, c.47, s.7.) As amended by P.L.252-1985, SEC.299.

IC 27-8-4-8

Revision of rate schedules; credit or refund of premiums

Sec. 8. A. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the

commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.

B. Each individual policy, or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; Provided, however, That the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

C. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

D. The amount charged to a debtor for any credit life or credit health and accident insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

(Formerly: Acts 1961, c.47, s.8.)

IC 27-8-4-9

Persons authorized to issue or deliver policies

Sec. 9. All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this state only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses issued by the commissioner.

(Formerly: Acts 1961, c.47, s.9.)

IC 27-8-4-9.5

Debtor's right to cancel policy; required provisions in application form; time limit

Sec. 9.5. (a) An individual or group policy of credit life insurance or credit accident and health insurance may not be delivered or issued for delivery in Indiana unless the application or authorized form:

- (1) provides the debtor with a right to cancel the policy not more than fourteen (14) days after the policy is issued; and
- (2) informs the debtor of the right to cancel in plain and conspicuous language.

(b) The language informing the debtor of the right to cancel under subsection (a)(2) must explain the way in which the debtor may cancel the policy and, if applicable, the address to which the debtor may mail the notice of cancellation.

(c) After the debtor cancels a policy under a provision required by subsection (a), the insurer or creditor shall return to the debtor the

premium paid by the debtor.
As added by P.L.226-1993, SEC.1.

IC 27-8-4-10

Report, adjustment, and settlement of claims

Sec. 10. A. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

B. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

C. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; Provided, That a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

(Formerly: Acts 1961, c.47, s.10.)

IC 27-8-4-11

Debtor's choice of insurer; use of existing policies

Sec. 11. When life insurance or accident and health insurance is required as additional security for any indebtedness, the debtor shall have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state. As used in this section, "life insurance" and "accident and health insurance" includes any form and any amount of life insurance or accident and health insurance that affords security to the creditor for the indebtedness involved.

(Formerly: Acts 1961, c.47, s.11.)

IC 27-8-4-12

Rules; order for compliance

Sec. 12. The commissioner may, after notice and hearing, issue such rules as he deems appropriate for the supervision of this chapter. Whenever the commissioner finds that there has been a violation of this chapter or any rules issued pursuant to this chapter and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction. The

provisions of sections 5, 6, 7, and 8 of this chapter shall not be operative until October 4, 1961, and the commissioner in his discretion may extend until not later than January 2, 1962, the initial period within which the provisions of sections 5, 6, 7, and 8 shall not be operative.

(Formerly: Acts 1961, c.47, s.12.) As amended by P.L.252-1985, SEC.300.

IC 27-8-4-13

Judicial review

Sec. 13. Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review under IC 4-21.5-5.

(Formerly: Acts 1961, c.47, s.13.) As amended by P.L.252-1985, SEC.301; P.L.7-1987, SEC.153.

IC 27-8-4-14

Violations; civil penalty; revocation or suspension of license or certificate of authority

Sec. 14. In addition to any other penalty provided by law, any person, firm, or corporation which violates an order of the commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of Indiana a sum not to exceed two hundred fifty dollars (\$250), which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed one thousand dollars (\$1000). The commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm, or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in section 13 of this chapter.

(Formerly: Acts 1961, c.47, s.14.) As amended by P.L.252-1985, SEC.302.